

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ADRIAN ACEVEDO-HERNANDEZ, et al.,

Defendants.

Case No. 2:14-cr-00242-JCM-VCF

ORDER

Presently before the court is Magistrate Judge Ferenbach's report and recommendation. (Doc. # 66.) No objections have been filed and the deadline for objections passed on January 4, 2015.

This matter involves the United States of America's prosecution of co-defendants Adrian Acevedo-Hernandez, Jose Luis Montufar-Canales, and Marin under the Migratory Bird Treaty Act, 16 U.S.C. § 703, 707(a), for possessing a morning dove, an American widgeon duck, and three green-winged teal ducks with no permit. (*See* doc. # 1.)

On December 15, 2014, the court held a change of plea hearing as to defendant Montufar. (Doc. # 63.) Defendant Montufar pled guilty to count four of the indictment through a plea agreement. The court accepted Montufar's guilty plea and set his sentencing for April 13, 2015. Defendants Acevedo and Marin remain and their cases are unsevered.

On November 14, 2014, defendant Acevedo filed a motion to suppress. (Doc. # 45.) On November 17, 2014, defendant Acevedo filed a motion to dismiss counts three and four. (Doc. # 46.) On December 1, 2014, the government filed a motion to extend time to file a response to defendant's motion to suppress. (Doc. # 48.) On December 2, 2014, defendant Marin filed a motion to continue trial (doc. # 53), which was scheduled at that time for January 5, 2015.

1 On December 18, 2014, the magistrate judge granted the government's motion to extend
2 time (doc. # 48), and set defendant Acevedo's motion to suppress (doc. # 45) and motion to dismiss
3 (doc. # 46) for hearing on January 21, 2015. (Doc. # 66.) Because the parties could not fully brief,
4 and the court could not adjudicate defendant Acevedo's motions before the January 5, 2015 trial
5 date, the magistrate judge recommended that defendant Marin's motion to continue trial (doc. #
6 53) be granted and that trial be continued for no less than sixty days.

7 The magistrate judge further recommended that this court set a trial date at its convenience
8 if it adopted the report and recommendation. Objections to the magistrate judge's report and
9 recommendation were due by January 4, 2015. Accordingly, this court would have been unable
10 to review and adopt the magistrate judge's recommendation to continue trial until it became ripe
11 on January 5, 2015, the day defendants' trial was scheduled to begin.

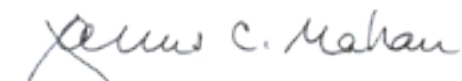
12 On December 31, 2014, this court reviewed de novo and granted defendant Marin's motion
13 to continue trial. (Doc. # 67.) The court rescheduled defendants' trial for April 13, 2015, and set
14 calendar call for April 8, 2015. (Doc. # 67.)

15 Because the court has already granted defendant Marin's motion to continue trial (doc. #
16 53), and set the new trial date for April 13, 2015, the magistrate judge's report and recommendation
17 regarding defendant Marin's motion is moot.

18 Accordingly,

19 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge
20 Ferenbach's report and recommendation (doc. # 66) be, and the same hereby is, DENIED as moot.

21 DATED THIS 8th day of January, 2015.

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25 JAMES C. MAHAN
26 UNITED STATES DISTRICT JUDGE
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